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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1992

THOMAS JOHNSON, Individually, and on Behalf of all Others Similarly Situated,

Petitioner,

v.

UNCLE BEN'S, INC.,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

SUPPLEMENTAL BRIEF IN SUPPORT Of PETITION FOR A WRIT OF CERTIORARI

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October 23, 1992

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STATEMENT OF THE CASE

Since the filing of the Petition for a Writ of Certiorari in this matter, the United States Court of Appeals for the Ninth Circuit has rendered its decision in Davis v. City and County of San Francisco, 1992 U.S. App. Lexis 24836 (October 6, 1992).

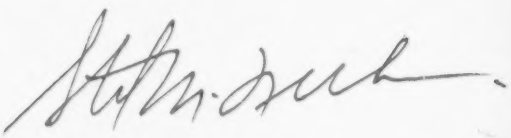
In Davis, the Ninth Circuit held that "Congress intended the courts to apply the Civil Rights Act of 1991 to cases pending at the time of its enactment and to pre-act conduct still open to challenge after that time." 1992 U.S. App. Lexis 24836, *49.

In reaching its conclusion, the Ninth Circuit expressly declined to follow the non-retroactivity holding of the Fifth Circuit in Johnson v. Uncle Bens, Inc., 965 F.2d 1363 (5th Cir. 1992) as well as similar holdings of other federal Courts of Appeals that have concluded that the Civil Rights Act of 1991 is to be given prospective effect only. 1992 U.S. App. Lexis 24836, *50-54.

While there was already a plethora of inconsistent lower court decisions prior to Davis, there is now a clear conflict in the circuits on this issue of national concern. Therefore, the Petition for Writ of Certiorari previously field in this matter should be granted to resolve

the conflict among the Circuit Courts of Appeals regarding retroactivity of the Civil Rights Act of 1991.

Respectfully submitted,



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